

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

R. Wayne Johnson,

Civ. No. 22-0304 (WMW/BRT)

Plaintiff,

v.

**REPORT AND
RECOMMENDATION**

Sarah Pfieffer; Amy Draeger; T.S. Barnetto; and Amy Pletscher, Judge,

Defendants.

In an order dated May 5, 2022, this Court denied the application to proceed *in forma pauperis* (“IFP”) of Plaintiff R. Wayne Johnson. (*See* Doc. No. 12 (citing 28 U.S.C. § 1915(g)).) Johnson was given 14 days to pay the required filing fee for this matter and proceed as a non-IFP litigant, failing which it would be recommended that this action be dismissed without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b).

That deadline has now passed, and Johnson has not paid the required filing fee. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 F. App’x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

RECOMMENDATION

Based upon the foregoing, and on all of the files, records, and proceedings herein,

IT IS HEREBY RECOMMENDED that:

1. This action be **DISMISSED WITHOUT PREJUDICE** under Fed. R. Civ. P. 41(b) for failure to prosecute.
2. The pending motions of Plaintiff R. Wayne Johnson (Doc. Nos. 3, 9) be **DENIED AS MOOT.**

Dated: June 1, 2022

s/ Becky R. Thorson _____
BECKY R. THORSON
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. *See* Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).